

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

TERRANCE MONTAGUE,
Plaintiff

v.

ROBERT W. MEYERS, et al.,
Defendants

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No. 1:CV-00-0895

(M.J. Smyser)

FILED
HARRISBURG

JAN 5 - 2001

MEMORANDUM IN SUPPORT OF
DEFENDANTS' MOTION FOR MODIFICATIONS TO
CASE MANAGEMENT ORDER

MARY E. D'ANDREA, CLERK
Per. *[Signature]*
DEPUTY CLERK

STATEMENT OF THE CASE

This is a civil action for damages brought pursuant to 42 U.S.C. § 1983. Plaintiff, an inmate incarcerated by the Pennsylvania Department of Corrections, names as defendants several officials or employees of the State Correctional Institution at Rockview ("SCI-Rockview"), the institution in which he was incarcerated when he filed the complaint in May 2000. Defendants answered the complaint on July 31, 2000.

By order dated August 1, 2000, the Court established pretrial deadlines including a discovery deadline of February 1, 2001 and a dispositive motions deadline of April 2, 2001. On November 30, 2000, the Court granted leave to defendants to take plaintiff's deposition at SCI-Rockview at a date and time to be arranged before the close of discovery.

On December 14, 2000, defendants noticed plaintiff's deposition for January 4, 2001 at SCI-Rockview. (See Exhibit A to Defendants' Motion for Modifications). On January 2, 2001, counsel for defendants was advised by staff at SCI-Rockview that plaintiff has been transferred for medical reasons from SCI-Rockview to SCI-Waymart, Wayne County, Pennsylvania, and he

is expected to be there for an extended period of time. As a result, the deposition scheduled for January 4, 2001 was canceled.

Defendants move for a 90-day enlargement of the discovery and dispositive motions deadlines and submit this memorandum in support of their motion.

QUESTION PRESENTED

Whether good cause exists for modifications to the case management order?

ARGUMENT

GOOD CAUSE EXISTS FOR MODIFICATIONS TO THE CASE MANAGEMENT ORDER.

In its case management order of August 1, 2000, the Court stated that modifications to the pretrial schedule would not be granted absent good cause. Defendants submit that good cause exists for granting an enlargement of the discovery and dispositive motions deadlines.

Upon receipt of the order granting leave to take plaintiff's deposition, counsel for defendants noticed plaintiff's deposition for January 4, 2001. Counsel did not know until January 2, 2001 that plaintiff was being transferred from SCI-Rockview for medical reasons. Presumably, plaintiff was not aware either because he voiced no objection to a deposition at SCI-Rockview on January 4. As a consequence, defense counsel canceled the deposition for January 4 so that plaintiff could receive whatever medical treatment he needs at SCI-Waymart before his deposition takes place.

Defendants will endeavor to take plaintiff's deposition expeditiously, consistent with his ability to be deposed. It is unlikely, however, that the deposition can be conducted before the current discovery deadline of February 1, 2001. For this reason, defendants request a 90-day enlargement of the discovery and dispositive motions deadlines in order that plaintiff's

deposition may be taken when he is able and there is sufficient time following the deposition to prepare and file a dispositive motion.

For the reasons, defendants submit that good cause exists to modify the discovery and dispositive motions deadlines of the case management order.


CONCLUSION

For the above-stated reasons, defendants' motion for modifications to the case management order should be granted.

Respectfully submitted,

D. MICHAEL FISHER
Attorney General

By:


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DATE: January 5, 2001

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CERTIFICATE OF SERVICE

I, **GREGORY R. NEUHAUSER**, Senior Deputy Attorney General for the Commonwealth of Pennsylvania, Office of Attorney General, hereby certify that on **January 5, 2001**, I caused to be served a true and correct copy of the foregoing document **Memorandum in Support of Defendants' Motion for Modifications to Case Management Order**, by depositing it in the United States mail, first-class postage prepaid to the following:

Terrance Montague, BZ-2761
SCI-Waymart
P. O. Box 256, Route 6
Waymart, PA 18472-0256



GREGORY R. NEUHAUSER
Senior Deputy Attorney General